

income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. Lenders will comply with the requirements of the Equal Credit Opportunity Act (see 12 CFR part 202). Such compliance will be accomplished prior to loan closing.

(c) *Civil rights compliance.* Recipients of grants must comply with the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This may include collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR part 1901, subpart E, § 1901.204 of this title. Grants will require one subsequent compliance review after the last disbursement of grant funds has been made, and the facility has been in full operation for 90 days.

(d) *Americans with Disabilities Act (ADA).* Guaranteed loans that involve the construction of or addition to facilities that accommodate the public and commercial facilities, as defined by the ADA, must comply with the ADA. The lender and borrower are responsible for compliance.

(e) *Environmental analysis.* Subpart G of part 1940 of this title outlines environmental procedures and requirements for this subpart. Prospective applicants are advised to contact the Agency to determine environmental requirements as soon as practicable after they decide to pursue any form of financial assistance directly or indirectly available through the Agency.

(1) Any required environmental review must be completed by the Agency prior to the Agency obligating any funds.

(2) The applicant will be notified of all specific compliance requirements, including, but not limited to, the publication of public notices, and consultation with State Historic Preservation Offices and the U.S. Fish and Wildlife Service.

(3) A site visit by the Agency may be scheduled, if necessary, to determine the scope of the review.

(4) The applicant taking any actions or incurring any obligations during the time of application or application review and processing that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction, will result in project ineligibility.

(f) *Executive Order 12898.* When a project is proposed and financial assistance requested, the Agency will conduct a Civil Rights Impact Analysis (CRIA) with regards to environmental justice. The CRIA must be conducted and the analysis documented utilizing Form RD 2006-38, "Civil Rights Impact Analysis Certification." This certification must be done prior to loan approval, obligation of funds, or other commitments of Agency resources, including issuance of a Letter of Conditions or Form RD 4279-3, whichever occurs first.

(g) *Discrimination complaints.* The regulations contained in 7 CFR part 1901, subpart E of this title apply to this program, with the exception of guaranteed loans. Any person or any specific class of person, believing they have been subjected to discrimination may file a complaint within 180 days of an alleged act of discrimination or from the time discrimination is known, or should have been known, with the USDA Director, Office of Adjudication, Room 3326-W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250-9410.

§ 4280.109 Ineligible applicants, borrowers, and owners.

Applicants, borrowers, and owners will be ineligible to receive funds under this subpart as discussed in paragraphs (a) and (b) of this section.

(a) If an applicant, borrower, or owner has an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the applicant is not eligible to receive a grant or guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.

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(b) If an applicant or borrower is debarred from receiving Federal assistance, the applicant is not eligible to receive a grant or guaranteed loan under this subpart.

§ 4280.110 General applicant and application provisions.

(a) *Complete applications.* Applicants must submit complete applications in order to be considered. If an application is incomplete, the Agency will identify those parts of the application that are incomplete and provide a written explanation to the applicant for possible future resubmission. Upon receipt of a complete application by the appropriate Agency office and by the applicable application deadline, the Agency will complete its evaluation.

(b) *Application withdrawal.* During the period between the submission of an application and the execution of loan and/or grant award documents, the applicant must notify the Agency, in writing, if the project is no longer viable or the applicant no longer is requesting financial assistance for the project. When the applicant so notifies the Agency, the selection will be rescinded or the application withdrawn.

(c) *Satisfactory progress.* An applicant that has received one or more grants and/or guaranteed loans under this program must make satisfactory progress, as determined by the Agency, toward completion of any previously funded projects before the applicant will be considered for subsequent funding under this subpart.

§ 4280.111 Notifications.

(a) *Eligibility.* If an applicant is determined by the Agency to be eligible for participation, the Agency will notify the applicant or lender, as applicable, in writing. If the applicant or the project is ineligible, the Agency will inform the applicant or lender, as applicable, in writing of the decision, reasons therefore, and any appeal rights. No further evaluation of the application will occur.

(b) *Ineligible applications.* If an application is determined to be ineligible at any time, the Agency will inform the applicant in writing of the decision, reasons therefore, and any appeal

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rights. No further evaluation of the application will occur.

(c) *Award.* Each applicant will be notified of the Agency's decision on their application.

RENEWABLE ENERGY SYSTEM AND ENERGY EFFICIENCY IMPROVEMENT GRANTS

§ 4280.112 Applicant eligibility.

To receive a RES or EEI grant under this subpart, an applicant must be an agricultural producer or rural small business, as defined in § 4280.103.

§ 4280.113 Project eligibility.

For a renewable energy system or energy efficiency improvement project to be eligible to receive a RES or EEI grant under this subpart, the proposed project must meet each of the criteria, as applicable, in paragraphs (a) through (j), as applicable, of this section, and is subject to the limitations specified in paragraph (k) of this section.

(a) The project must be for the purchase of a renewable energy system or to make energy efficiency improvements. Energy efficiency improvements to existing renewable energy systems are eligible energy efficiency improvement projects.

(b) The project must be for a pre-commercial or commercially available, and replicable technology.

(c) The project must have technical merit, as determined using the procedures specified in § 4280.117(b).

(d) The facility for which the project is being proposed must be located in a rural area, as defined in § 4280.103, in a State if the type of applicant is a rural small business, or in a rural or non-rural area in a State if the type of applicant is an agricultural producer. If the agricultural producer's facility is in a non-rural area, then the application can only be for renewable energy systems or energy efficiency improvements on integral components of or that are directly related to the facility, such as vertically integrated operations, and are part of and co-located with the agriculture production operation.

(e) The applicant must have a place of business in a State.